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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,825	04/12/2001	Kazunori Kaneda	Q64042	1925

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EXAMINER	
FISCHER, JUSTIN R	
ART UNIT	PAPER NUMBER
1733	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/832,825

Applicant(s)

KANEDA, KAZUNORI

Examiner

Justin R. Fischer

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 2 and 16.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

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Continuation of 11: In regards to the declaration, the declaration under 37 CFR 1.132 filed March 25, 2005 is insufficient to overcome the rejection of claims 2 and 16 based upon Fukuhara, Fukumoto, and Mori as set forth in the last Office action because: while the declaration shows improved adhesion and resistance to adhesion loss, the tire structure of Fukuhara is not being modified to incorporate the claimed inorganic filler- the claimed inorganic filler is expressly disclosed in the tire structure of Fukuhara. It is emphasized that the claim as currently drafted defines a rubber composition layer "comprising" a rubber component- this language does not exclude the inclusion of reinforcing elements and as such, the belt layer of Fukuhara can be viewed as a squeegee rubber composition layer.

As to the rejections with Fukumoto in view of Mori or alternatively, Mori in view of Fukumoto, a fair reading of the respective references fails to suggest that the metal salt or the inorganic filler (hydrotalcite) can only be used in the disclosed composition. In each instance, the references disclose the benefits of incorporating a metal salt and an inorganic filler in an innerliner composition, wherein said benefits are independent of the specific composition. For example, Fukumoto teaches the inclusion of a metal salt in an innerliner composition in order to provide improved adhesion between the steel cords and topping rubber that define the carcass. It is emphasized that the metal salt is included in the innerliner layer that is directly adjacent the carcass, such that one of ordinary skill in the art at the time of the invention would have found it obvious to incorporate a metal salt in an innerliner layer that is adjacent a carcass structure for the benefits detailed above, independent of the base rubber composition of the innerliner.

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With respect to 16, a fair reading of Kobayashi and Nosu does not exclude the use of "calcined" hydrotalcite in a rubber composition mainly comprising natural and/or synthetic polyisoprene. The references are applied, in combination with the Admitted Prior Art, to evidence the conventional use of such a hydrotalcite in a variety of compositions, including rubber compositions. It is emphasized that Fukuhara and Mori expressly teach the inclusion of hydrotalcite and applicant has not provided a conclusive showing of unexpected results to establish a criticality for the claimed type of hydrotalcite.


Justin Fischer

April 1, 2005


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